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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,048	12/19/2001	Ohler L. Kinney JR.	87280.1762	6201

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EXAMINER
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BUSHEY, CHARLES S

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS7

# Office Action Summary

Application No.

10/021,048

Applicant(s)

KINNEY ET AL.

Examiner

Scott Bushey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 14-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,7 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 sheets 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-13, and Species B therein, as depicted by Figures 7-12 in Paper No. 6 is acknowledged. The traversal is on the grounds that the Examiner has not demonstrated serious burden. This is not found persuasive because applicant has failed to address the reasons for restriction set forth by the Examiner within the restriction requirement. Accordingly, claims 1-13 have been examined herein on the merits, while claims 14-27 are withdrawn from further consideration as being drawn to a non-elected invention.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: In claim 3, line 2, it is suggested that applicant insert the word --and-- between "wall" and "extending" for clarity. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cates et al (Figs. 3 and 4; col. 4, lines 11-14).

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Applicant should note that the covers (23) over the apertured hot water distributor plates (22) provide the cooling tower top of the reference apparatus in the form of an enclosed unit. Further, the top edge of the cowling (18) is considered to anticipate the opening in the top wall of the top cover for the air current generator. Lastly, the fact that the liquid distributor means is split into two units does not adversely affect the applicability of the reference to the invention as broadly recited by instant claims 1-3, and 7.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cates et al taken together with Forchini et al.

Cates et al (Figs. 3 and 4; col. 4, lines 11-14) substantially disclose applicant's invention as recited by instant claims 11-13, except for the bottom of the distributor having raised portions

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to limit the amount of water held thereby and the inverted V type flow splitter for dividing the incoming liquid flow.

Forchini et al (Figs. 3 and 4) disclose a hot liquid distributor pan for a cooling tower wherein the bottom of the distributor has raised portions (34,36) to limit the amount of water held thereby and an inverted V type flow splitter (32) for dividing the incoming liquid flow evenly among the liquid outlet apertures (38) in the pan. It would have been obvious for an artisan at the time of the invention, to provide the liquid distribution pan means of Cates et al with raised portions to limit the amount of water held thereby and an inverted V type flow splitter for dividing the incoming liquid flow, in view of Forchini et al, since such would reduce the occurrence of uneven liquid supply to the fill material, thereby increasing the efficiency of the device.

#### ***Allowable Subject Matter***

8. Claims 4-6, and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on (703) 308-1261. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Scott Bushey  
Primary Examiner  
Art Unit 1724

A handwritten signature in black ink, appearing to read 'Scott Bushey', is written over the printed name.

8-28-03

csb  
8-28-03